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May 18, 1999

By Hand

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
Leverett Saltonstall Building
100 Cambridge Street, 12th Floor
Boston, MA 02202

Re: Massachusetts Electric Company and Nantucket Electric Company's
Comments on Proposed Street Opening Standards; D.T.E. 98-22

Dear Secretary Cottrell:

Pursuant to the Department's Notice of Public Hearing and Request for Comments in this proceeding, Massachusetts Electric Company and Nantucket Electric Company (collectively the "Company") submit these written comments.

General Comment:

The Department established a technical committee comprised of representatives of utilities, utility associations, municipalities, municipal associations, and the Massachusetts Highway Department to address issues related to street openings. With direction and guidance from the Department, this committee developed and proposed a set of standards that represents a carefully crafted compromise of their widely disparate views on this subject. The Company supports the compromise reached by the committee and appreciates its efforts.

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In a number of areas, the Department proposal modifies the standards agreed on by the committee. These modifications negatively affect the compromised balance that allowed the committee to reach agreement. Thus, the Company strongly recommends that the Department revise its proposed standards in order to more closely follow the committee's proposal.

Performance Based Standard:

During the technical committee meetings, it quickly became apparent that both the municipalities and the utilities wanted a single uniform set of standards for street restorations. Utilities work across multiple municipalities and need uniformity to adequately train and equip their workers. Towns deal with multiple utilities and want uniformity, regardless of which utility they are dealing with. The technical committee developed specification standards to satisfy both of those needs. For these reasons, the Company recommends against a utility specific program of performance standards.

If, however, the Department decides to promulgate performance, rather than specification, based standards, it should restart this proceeding with an emphasis on performance based standards. The technical committee, the Department's proposed standards, and comments at the public hearing did not address performance based standards. Thus, the Department does not have an adequate record for writing a set of performance based standards at this time.

Minimum Permit Requirements:

In its proposal, the Department titled Section 03, Minimum Permit Requirements. The intent of the technical committee was that the agreed on provisions be the only permit requirements municipalities could impose. A major concern by utilities was the establishment of a single uniform set of requirements across the Commonwealth to replace the current patchwork of different requirements in each municipality. Massachusetts Electric serves 145 communities in the Commonwealth and cannot deal with separate and different rules in each community. Municipalities were concerned that they have adequate control over the street restoration process. The identification of specific allowed permit requirements was a fundamental element of the compromise worked out by the technical committee. It gives the towns the control they want while putting an upper bound on the variety of requirements that utilities face. The Department should restore the intent of the technical committee by making the permit requirements maximum, not minimum, permit requirements.

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Controlled Density Fill (CDF):

In Section 8.4 of its proposal, the Department requires the use of CDF where "adequate soil compaction cannot be achieved." In the technical committee, there was general agreement that this was the appropriate standard, but wide disagreement about what this standard meant when applied. The guidelines that the technical committee developed to describe circumstances where CDF was required was a central element of the compromise reached and should be kept by the Department.

Editorial Comments:

Finally, we recommend making the following corrections:

Section 5.5, Last Line:

Replace "Uniformed" with "Uniform," to correct document title.

Section 8.0, First Line:

Replace "approved" with "suitable," to match terminology defined in Section 8.7.

Section 8.2, First Line:

Replace "if" with "is."

Section 10.4, Last Line:

Delete "in."

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Thank you very much for the opportunity to provide these comments.

Very truly yours,

Amy G. Rabinowitz

Attorney for Massachusetts Electric Company and Nantucket Electric Company